

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SGT. HAROLD BOZEMAN,)	
)	
Plaintiff,)	
v.)	C.A. No. 16-00391 (GMS)
)	
BOBBY CUMMINGS, individually and)	
in his official capacity as the Chief of Police)	
of the City of Wilmington and CITY OF)	
WILMINGTON, a municipal corporation,)	
)	
Defendants.)	

VERDICT FORM

We, the jury, unanimously find as follows:

Preliminary Question Regarding Social Media Issue

Did the management of the WPD believe that the statement in the social media post by Mr. Bozeman that “the beatings will continue until morale improves” refers (1) to relations between the management of the WPD and its officers, or (2) to beatings of the public by officers of the WPD?

(1) _____

(2) ✓

If to relations check box number 1 and if to the public check box number 2.

[Please use your answer to this Preliminary Question in conjunction with Final Jury

Instruction No. 4.]

[Go to Question 1.]

First Amendment Free Speech Claim

1. Do you find that plaintiff Bozeman has proved by a preponderance of the evidence that his protected activity was a substantial or motivating factor in disciplining, transferring or declining to promote plaintiff Bozeman?

Yes ☒ No ☐

[If you answered "Yes" go to Question 2. If you answered "No" go to Question 9.]

2. Do you find that plaintiff Bozeman has proved by a preponderance of the evidence that an official policy or custom of the City or a deliberate choice of Cummings to follow a course of action, was the cause and moving force behind disciplining, transferring, or declining to promote plaintiff Bozeman?

Yes ☐ No ☒

[If you answered "Yes" go to Question 3. If you answered "No" go to Question 9.]

3. Do you find by a preponderance of the evidence that the City and Cummings have proved that they would have reached the same decisions or taken the same actions if the protected free speech had not occurred?

Yes ☐ No ☐

[If you answered "Yes" go to Question 9. If you answered "No" go to Question 4.]

Compensatory Damages for First Amendment Free Speech Claim

4. If you find that plaintiff Bozeman suffered emotional and mental harm due to a violation of his protected free speech, what dollar amount will compensate him for emotional and mental harm?

\$ _____

[Go to Question 5.]

5. If you find that plaintiff Bozeman's protected free speech was a substantial or motivating factor in him being disciplined, what dollar amount will compensate him for the disciplinary suspension?

\$ _____

[Go to Question 6.]

6. If you find that plaintiff Bozeman's protected free speech was a substantial or motivating factor in him not being promoted, what dollar amount will compensate him for the wages and/or pension benefits he has lost, and is reasonably certain to lose in the future?

\$ _____

[Go to Question 7.]

7. If you return a verdict for plaintiff Bozeman on his First Amendment free speech claim but find that he has failed to prove compensatory damages, you must award nominal damages of \$1.00.

\$ _____

[Go to Question 8.]

8. Do you find that plaintiff Bozeman has proved by a preponderance of the evidence that he was deprived of his First Amendment right to free speech by defendant Cummings and Cummings acted maliciously or wantonly in violating plaintiff Bozeman's free speech rights?

Yes _____ No _____

[If you answered "Yes", enter below the amount of punitive damages you believe is appropriate.]

\$ _____

[Go to Question 9.]

First Amendment Freedom of Association Claim

9. Do you find that plaintiff Bozeman has proved by a preponderance of the evidence that his union association was a substantial or motivating factor in disciplining, transferring or declining to promote plaintiff Bozeman?

Yes _____

No ✓

[If you answered "Yes" go to Question 10. If you answered "No" go to Question 17.]

10. Do you find that plaintiff Bozeman has proved by a preponderance of the evidence that an official policy or custom of the City or a deliberate choice of Cummings to follow a course of action was the cause and moving force behind disciplining, transferring, or declining to promote plaintiff Bozeman?

Yes _____

No _____

[If you answered "Yes" go to Question 11. If you answered "No" go to Question 17.]

11. Do you find by a preponderance of the evidence that the City and Cummings have proved that they would have reached the same decisions or taken the same actions if the Bozeman had not been associated with the union?

Yes _____

No _____

[If you answered "Yes" go to Question 12. If you answered "No" go to Question 17.]

Compensatory Damages for First Amendment Free Association Claim

12. If you find that plaintiff Bozeman suffered emotional and mental harm due to a violation of his protected free association, what dollar amount will compensate him for emotional and mental harm?

\$ _____

[Go to Question 13.]

13. If you find that plaintiff Bozeman's union association was a substantial or motivating factor in him being disciplined, what dollar amount will compensate him for the disciplinary suspension?

\$ _____

[Go to Question 14.]

14. If you find that plaintiff Bozeman's union association was a substantial or motivating factor in him not being promoted, what dollar amount will compensate him for the wages and/or pension benefits he has lost, and is reasonably certain to lose in the future?

\$ _____

[Go to Question 15.]

15. If you return a verdict for plaintiff Bozeman on his First Amendment free association claim but find that he has failed to prove compensatory damages, you must award nominal damages of \$1.00.

\$ _____

[Go to Question 16.]

16. Do you find that plaintiff Bozeman has proved by a preponderance of the evidence that he was deprived of his First Amendment right to free association by defendant Cummings and Cummings acted maliciously or wantonly in violating plaintiff Bozeman's freedom of association rights?

Yes _____

No _____

[If you answered "Yes", enter below the amount of punitive damages you believe is appropriate.]

\$ _____

[Go to Question 17.]

Due Process Claim

17. Do you find that plaintiff Bozeman has proved by a preponderance of the evidence that he was deprived of an impartial hearing in connection with the suspension for the Facebook posting?

Yes _____ No ✓

[If you answered "Yes" go to Question 18. If you answered "No" your deliberations have ended.]

18. If you find that plaintiff Bozeman suffered any damages due to being deprived of an impartial hearing, what dollar amount will compensate him?

\$ _____

[Go to Question 19.]

19. If you find that plaintiff Bozeman suffered emotional and mental harm due to being deprived of an impartial hearing, what dollar amount will fairly compensate him for emotional harm?

\$ _____

[Go to Question 20.]

20. If you return a verdict for plaintiff Bozeman on his due process claim, but find that he has failed to prove compensatory damages, you must award nominal damages of \$1.00.

\$ _____

[Go to Question 21.]

21. Do you find that defendant Cummings acted maliciously or wantonly in violating plaintiff Bozeman's protected rights?

Yes _____

No _____

[If you answered "Yes", enter below the amount of punitive damages you believe is appropriate.]

\$ _____

[Your deliberations have ended. Have Foreperson sign on this page, and notify the Court Officer.]

THE FOREGOING IS THE VERDICT OF THE JURY



SEALED

Foreperson _____

Dated: January 19, 2018